

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|------------------------------|---|---------------------------|
| - - - - - | X | |
| | : | |
| UNITED STATES OF AMERICA | : | <u>AFFIRMATION</u> |
| | : | |
| - v. - | : | 19 Cr.651 (LTS) |
| | : | |
| MIRCEA CONSTANTINESCU et al. | : | |
| | : | |
| Defendants. | : | |
| | : | |
| - - - - - | X | |

Daniel M. Loss, pursuant to Title 28, United States Code, Section 1746, hereby affirms under penalty of perjury that:

1. I am an Assistant United States Attorney in the Office of Geoffrey S. Berman, United States Attorney for the Southern District of New York. I submit this affirmation in further support of an order designating this case as a case with "multiple crime victims" pursuant to Title 18, United States Code, Section 3771(d)(2), and approving certain victim notification procedures as "reasonable" under that Section, as set forth in my affirmation dated November 21, 2019 (the "November 21 Affirmation")(Dkt. 109), which is incorporated by reference herein.

2. The Indictment in this case charges that, from in or about 2014 through at least in or about September 2019, the defendants carried out a wide-ranging scheme as part of a transnational "ATM skimming" organization. The Skimming Organization's activities involved, among other things, unlawfully obtaining debit card information by using advanced technological devices to surreptitiously record victim accountholders' debit card numbers and personal identification numbers at automatic teller machines ("ATMs") and then manufacturing counterfeit and fraudulent debit cards that bear the victim accountholders'

account information, which members of the scheme then used to fraudulently withdraw cash from the victim accountholders' bank accounts.

3. As a general matter, the financial institutions that were the subject of skimming incidents carried out by the Skimming Organization communicated with accountholders when their accounts were the subject of suspected fraudulent activity. These communications were often in connection with (a) the reissuance of ATM cards to the victim accountholders and/or (b) adjustments to accounts relating to suspected fraudulent transactions.

4. The Government currently maintains a notice (the "Notice") regarding this case online at <https://www.justice.gov/usao-sdny/united-states-v-constantinescu-et-al-19-cr-651-lts>.

5. In order to help victims of fraudulent ATM card activity determine whether such activity was related to the Skimming Organization's conduct in this case, the Government has updated the Notice to direct individuals who believe that they may have been victims of fraudulent ATM card activity to contact the Victim-Witness coordinator at the United States Attorney's Office for assistance in verifying whether they are victims in this case.

6. The proposed procedures described in the November 21 Affirmation and herein are similar to the procedures adopted in a number of other cases in this District involving a large number of individual victims. See, e.g., June 2, 2016 Order in *United States v. St. Lawrence*, No. 16 Cr. 259 (CS) (Dkt. 20) (ordering notification via Internet posting in municipal bond fraud case

involving "numerous potential victims" and no "readily available compilation of all the potential victims"); Sept. 20, 2012 Order in *United States v. Collins*, No. 07 Cr. 1170 (LAP) (Dkt. 184) (ordering notification via Internet posting in light of number of victims in securities fraud case); Dec. 17, 2018 Order in *United States v. Mendlowitz*, No. 17 Cr. 248 (VSB) (ordering notification via Internet posting due to "number of victims" in case involving conspiracy to collect unlawful debts).

7. For the reasons set forth above and in the November 21 Affirmation, the Government respectfully submits that the proposed procedures described in the November 21 Affirmation and herein represent a "reasonable procedure" to give effect to the Act.

I declare under penalties of perjury that the foregoing is true and correct, pursuant to 28 U.S.C. 1746.

Dated: New York, New York
December 2, 2019



Daniel M. Loss
Assistant United States Attorney